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14 June 1973

MEMORANDUM FOR: Legislative Counsel

Jack:

I understand you are preparing the answer for General Walters to send to Chairman Hebert on H. R. 8432, the Koch bill. I assume you will cover at the very least the following points:

a. We have already agreed to reduce any such training to a minimum and only upon the approval of the Director, and we think that is the reasonable approach.

b. We cannot live in a vacuum, and the Koch bill as stated would prevent us from supplying information we pick up in the foreign intelligence field concerning narcotics to BNDD. The bill would prohibit us from passing on even to the FBI foreign intelligence information relating to such things as bomb alerts or other violence in this country, and we could not even tell the local police in the event some criminal action was directed against our installations. The bill reduces the situation to the absurd.

c. Finally, I think we should take strong exception to Mr. Koch's comments, which indicate that somehow or other we participated in the burglary of Ellsberg's psychiatrist's office.

STATINTL

OGC Has Reviewed

Lawrence R. Houston

OGC:LRH:jeb
OGC chrono
✓subject Legislation - Not Indexed

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TO [redacted]
FROM
SUBJ. Comments on H.R. 8432 re CIA training or providing other assistance in support of state or local law enforcement.

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NOTE ATTACHED TO LETTER TO GENERAL WALTERS DATED JUNE 8, 1973

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MENDEL J. DAVIS, S.C.
JAMES R. JONES, OKLA.
PATRICIA SCHROEDER, COLO.

U.S. House of Representatives
COMMITTEE ON ARMED SERVICES
Washington, D.C. 20515

NINETY-THIRD CONGRESS
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FRANK M. SLATINSHEK, CHIEF COUNSEL
ONETA L. STOCKSTILL, EXECUTIVE SECRETARY

June 8, 1973

Lt. General Vernon A. Walters
Acting Director
Central Intelligence Agency
Washington, D. C.20505

Dear General Walters:

The views and recommendations of the Cent ral Intelligence Agency are requested on H.R. 8432, copies of which are enclosed.

Sincerely,

F. Edw. Hebert

F. Edw. Hebert
Chairman

Enclosures

FEH:ej

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93D CONGRESS
1ST SESSION

# H. R. 8432

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 1973

Mr. KOCH introduced the following bill; which was referred to the Committee on Armed Services

# A BILL

To amend the National Security Act of 1947 to prohibit the Central Intelligence Agency from providing training or other assistance in support of State or local law enforcement activities.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first proviso contained in section 102 (d) (3) of the National Security Act of 1947 (50 U.S.C. 403 (d) (3)) is amended by adding at the end thereof the following: ", and shall not provide training or any other form of assistance, directly or indirectly, in support of any law enforcement activity of any unit of State or local government".

I

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93D CONGRESS
1ST SESSION

# H. R. 8432

## A BILL

To amend the National Security Act of 1947 to prohibit the Central Intelligence Agency from providing training or other assistance in support of State or local law enforcement activities.

By Mr. KOCH

JUNE 6, 1973
Referred to the Committee on Armed Services

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## ARE COX'S WATERGATE PROSECUTORS PARTISAN?

(Mr. DEVINE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, when Elliot Richardson was before the Senate for confirmation as Attorney General of the United States, there was much hub-bub about the selection of a special prosecutor for the Watergate case.

Some Senators were insistent that the special prosecutor be above reproach, completely independent of any control or direction from this administration and ultimately Prof. Archibald Cox was selected.

As a former FBI agent and a former prosecuting attorney in a large metropolitan area, including the capital city of my State, I think I have some knowledge of investigations, prosecutions, law enforcement, and administrative decisions in directing prosecutive staffs.

It is most intriguing to note the direction Special Prosecutor Cox is taking. He was, of course, Solicitor General of the United States during the Kennedy administration. The late Bobby Kennedy was Attorney General, and the stable of special prosecutors being assembled by Professor Cox seem to be 100 percent Kennedy worshipers. Many were in the Justice Department with Kennedy.

The newspapers have announced Cox's selections thus far as James Vorenberg, who was an associate employee and devoted to the late Attorney General Robert F. Kennedy. Thomas McBride, formerly of Justice, and more recently top attorney for the Police Foundation of itinerant Police Chief "Pat" Murphy, late of Syracuse, Washington, D.C., and New York City. James Neal of Nashville, who successfully prosecuted Jimmy Hoffa as an assistant U.S. attorney, and was rewarded by being chosen by Kennedy as U.S. attorney in Nashville. For the past 6 years he has been in the private practice in Nashville. Also, Cox's former aide in Justice under Kennedy, Prof. Phil Heyman.

And, I am reliably informed other former aides of the late Bobby Kennedy are presently being besieged to represent those who are or may be involved in the so-called Watergate matter.

One is compelled to wonder whether there are not any present or past Republican assistant U.S. attorneys, U.S. attorneys or State attorneys general available to give at least semblance of a bipartisan approach by Special Prosecutor Cox. Is it going to evolve into a Democratic "witch-hunt" aimed at Republicans, and "escape-hatch" for the clients of the former Kennedy lawyers?

Mr. Speaker, Senator ERVIN's committee at least suggests an investigation relatively free of pure partisanship however, it might be a real eye-opener if his inquiry probed into the allegedly fabulous sky-high fees being paid to the lawyers in the Watergate case.

It has been reported lawyer William Bitmann was paid $85,000 to plead his client E. Howard Hunt guilty. Imagine—for a guilty plea. What would it have been for a trial? Maybe Bitmann set a precedent with an unbelievable guilty fee for Spiegel Co. in the Brewster case.

The Grievance Committees of the District of Columbia Court of Appeals, and the U.S. District Court might well concern themselves in this fee area.

In any event, some balance in the prosecuting team is certainly the responsibility of Professor Cox, unless he plans to operate an anti-Nixon vendetta, with a group of lawyers from the snakepits of former adversaries.

## PROHIBITING CIA'S ENGAGING IN DOMESTIC LAW ENFORCEMENT

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, in response to a New York Times article last December stating that the CIA has been involved in the training of New York City policemen, I wrote to Richard Helms, then Director of the CIA, requesting the following information:

First. The number of police officers from local police departments throughout the country who had received CIA instruction within the last 2 years;

Second. A description of the training provided by the CIA;

Third. The cost of this training and the source of the funds;

Fourth, The purpose of this training and the legislative authority for CIA involvement; and

Fifth. Whether the CIA intends to continue training local police officers. It was my understanding that the CIA was precluded by the law under which it was created, The National Security Act of 1947, from engaging in domestic law enforcement activities.

On January 29, 1973, I was advised by John Maury of the CIA that there was no specific law which authorizes the CIA to undertake the training of local police forces but that the CIA believes that the statute which created LEAA indicates an intent that all Federal agencies should assist in law enforcement and crime prevention efforts in America. He also said that training was provided on request of police departments in about a dozen jurisdictions, and that such training dealt with the handling of explosives and foreign weapons as well as the detection of wiretaps and bugs in which foreign interests are involved.

Mr. Maury informed me of the CIA's authority, as the Agency interprets it, to conduct such activities. I quote from his letter:

> Regarding the Agency's authority to conduct such briefings, the National Security Act of 1947 (P.L. 80–253, as amended) specifically provides that "the Agency shall have no police, subpoena, law-enforcement powers, or internal security functions." We do not consider that the activities in question violate the letter or spirit of these restrictions. In our judgment they are entirely consistent with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90–351, 42 USCA 3701 et seq). In enacting that law it was the declared policy and purpose of Congress "to assist State and local governments in strengthening and improving law enforcement at every level by national assistance" and to ". . . encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals" (42 USCA 3701). By the same law Congress also authorized the Law Enforcement Assistance Administration to use available services, equipment, personnel and facilities of the Department of Justice and of "other civilian or military agencies and instrumentalities" of the Federal Government to carry out its function (42 USCA 3756).

In an attempt to determine the viability of this interpretation of the law, I requested the General Accounting Office to study the matter and give me its opinion. In its response, the GAO noted that its examination of the National Security Act of 1947, as amended, "fails to disclose anything which reasonably could be construed as authorizing such activities (CIA training of local police forces)". However, the GAO did acknowledge that in the Omnibus Crime Control and Safe Streets Act of 1968 Congress authorized the LEAA to use available services, equipment, personnel and facilities of the Justice Department and of "other civilian and military agencies and instrumentalities" of the Federal Government to carry out its function. In addition, the GAO noted that the Intergovernmental Cooperation Act of 1968 authorizes "all departments and agencies of the executive branch of the Federal Government—which do not otherwise have such authority—to provide reimbursable specialized or technical services to State and local governments." Thus it would appear that while the authority for these CIA activities is not specifically established in law, a loophole has apparently been created by the provisions of the Omnibus Crime Control Act and the Intergovernmental Cooperation Act.

I am therefore introducing legislation today which I believe would establish in law the intent of the National Security Act of 1947 that the CIA be prohibited from becoming involved in internal security functions. This legislation would specifically prohibit the CIA from providing training or other assistance directly or indirectly in support of State or local law-enforcement activities. It would supercede the provisions of the Omnibus Crime Control Act of 1968 and of the Intergovernmental Cooperation Act of 1968 under which the CIA draws its present tenuous authority, and would thus make further CIA involvement in "internal security functions" a clear violation of our laws.

The matter of the CIA's involvement in domestic affairs is a very serious one. The American public was recently shocked by disclosures that the CIA had been involved in the burglary of the office of Dr. Daniel Ellsberg's former psychiatrist. Neither Members of Congress nor officials in our judicial system are in a position at this point to determine the extent of CIA involvement in similar matters. The very fact that the CIA is carefully exempted from the usually required reports to the Congress—indeed its budget is confidential and not available to individual Members—poses the greatest of dangers. The operational

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authority of the CIA as a foreign intelligence agency must be limited and clearly defined in law, and its activities must be more vigilantly supervised. But in any event the law must be changed so not to give the CIA even the color of consent to engage in domestic surveillance of the citizens of this country.

We must be alert to abuses of the CIA's authority so that we don't wake up some morning to find that an agency we established to protect ourselves from outside subversion has become a Trojan horse in our midst invading the private lives of our own people. We have already had an instance, with the Ellsberg case, in which the facilities of the CIA were used to invade the private life of an individual. Such activities and the relationship that necessarily evolves from local police training programs must be avoided.

The response I received from the GAO follows:

COMPTROLLER GENERAL OF
THE UNITED STATES,
*Washington, D.C., May 30, 1973.*

Hon. EDWARD I. KOCH,
*House of Representatives.*

DEAR MR. KOCH: Reference is made to your letter of March 5, 1973, and subsequent correspondence resulting from an article which appeared in the New York Times for December 17, 1972, stating that 14 New York policemen had received training from the Central Intelligence Agency (CIA) in September.

Enclosed for your information is a copy of our letter of today to the Director, CIA, advising that the CIA has no authority to provide such training, except in accordance with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 or the Intergovernmental Cooperation Act of 1968.

We trust that this will be of assistance to you.

Sincerely yours,

ELMER B. STAATS,
*Comptroller General of the United States.*

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COMPTROLLER GENERAL OF
THE UNITED STATES,
*Washington, D.C., May 30, 1973.*

Hon. JAMES R. SCHLESINGER,
*Director, Central Intelligence Agency.*

DEAR MR. SCHLESINGER: The Honorable Edward I. Koch, of the House of Representatives had referred to us for a ruling copies of correspondence with your office and certain material which appeared in the Congressional Record for February 6, 1972, page H726 and March 5, 1973, pages H1352–1353, which was prompted by an article in the New York Times for December 17, 1972, which stated that fourteen New York policemen had received training from the Central Intelligence Agency (CIA) in September.

Because of an informal contact from your office we suggested that a statement be sent from your office as to exactly what was done and the specific statutory authority relied upon therefor. As a result, we received a letter dated March 16, 1973, from your Deputy General Counsel which enclosed (1) an extract of the Congressional Record for March 5, 1973, *supra*, that contained Congressman Chet Holifield's discussion and report of the inquiry into the matter by the House Committee on Government Operations at the request of Congressman Koch, together with related correspondence and (2) a copy of Congressman Koch's letter of December 28, 1972, to the CIA and a copy of the response of January 29, 1973, signed by your Legislative Counsel. It was stated that it would appear that all the information needed was contained in those enclosures. We were also assured that the CIA does not run a formal institution for training of police officers in the manner of the FBI Academy located at "Fort Belvoir." (The FBI Academy is located at Quantico, Virginia.)

It is noted that the Congressional Record for March 5, 1973, page 1353 also includes related remarks of Congressman Lucian N. Nedzi, Chairman of the Special Subcommittee on Intelligence, House Committee on Armed Services, as to the activity of that Subcommittee in the matter, in which he emphasizes that the basic jurisdiction in CIA matters remains with the Armed Services Committee and that the Subcommittee has been diligent in fulfilling its responsibilities. He also stated that he shared the view "that the CIA should refrain from domestic law inforcement activities and that some of the activities described by our colleague Mr. Koch, and the agency itself could have been performed much more appropriately by other agencies."

It appears from the material referred to above that within the last two years less than fifty police officers from a total of about a dozen city and county police forces have received some kind of CIA briefing.

As to the New York police it appears that with the assistance of the Ford Foundation an analysis and evaluation unit was developed within the Intelligence Division of the New York City police department. At the suggestion of a Ford Foundation representative it sought assistance from the CIA as to the best system for analyzing intelligence. Although the CIA's techniques and procedures involve only foreign intelligence they were considered basic and applicable to the needs of the New York police. A 4-day briefing was arranged at which a ground of New York City police was briefed on the theory and technique of analyzing and evaluating foreign intelligence data, the role of the analyst, and the handling and processing of foreign intelligence information.

The briefing was given by a CIA training staff, based upon material used in training the CIA analysts and without any significant added expense. Specific guidance was not given as to how the New York City police system should be set up but the CIA presented its basic approach.

CIA assistance to local law enforcement agencies has been of two types. In the first type of assistance one or two officers received an hour or two of briefing on demonstration of techniques. Police officers from six local or State jurisdictions came to CIA headquarters for this type of assistance. In the second type of assistance, the briefing lasted for 2 or 3 days. Instruction was given in such techniques as record handling, clandestine photography, surveillance of individuals, and detection and identification of metal and explosive devices. Nine metropolitan or county jurisdictions sent officers for this type of instruction. Assistance given was at no cost to the recipients and has been accomplished by making available, insofar as their other duties permit, qualified CIA experts and instructors. Cost to the CIA has been minimal.

It is stated that all briefings have been conducted in response to the requests of the various recipients. It is also stated that the CIA intends to continue to respond to such requests within its competence and authority to the extent possible without interfering with its primary mission.

No provision of that part of National Security Act of 1947, as amended, 50 U.S.C. 403, *et seq.*, which established the Central Intelligence Agency has been cited as authority for the activities undertaken and our examination of that law fails to disclose anything which reasonably could be construed as authorizing such activities. However, in his letter of January 29, 1973, to Congressman Koch, your Legislative Counsel stated that these activities were entirely consistent with the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.* He noted that in 42 U.S.C. 3701 it was the declared policy of the Congress "to assist State and local governments in strengthening law enforcement at every level" and that it was the purpose of that law to "encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals." 42 U.S.C. 3721. He also noted that in the same law at 42 U.S.C. 3756 Congress authorized the Law Enforcement Assistance Administration to use available services, equipment, personnel, and facilities of the Department of Justice and of "other civilian and military agencies and instrumentalities" of the Federal Government to carry out its function. It should also be noted that the section authorizes such use on a reimbursable basis.

There is nothing in the Omnibus Crime and Safe Streets Act of 1968 which authorizes a Federal agency of its own volition to provide services which it is not otherwise authorized to provide. As previously stated there is nothing in the legislation establishing the CIA which would authorize the activities in question. Neither does it appear that those services, equipment, personnel, and facilities utilized were utilized by the Law Enforcement Assistance Administration or even at its request. As stated by Congressman Holifield in his letter of February 23, 1973, to you and quoted in the Congressional Record for March 5, 1973:

Since the Law Enforcement Assistance Administration is the agency primarily concerned with such matters, particularly where Federal assistance funds are involved, it would seem that the need for Federal agency assistance to local law enforcement agencies should be coordinated by that Administration.

In that same letter of February 23, 1973, Congressman Holifield invited attention to the Intergovernmental Cooperation Act of 1968, Pub. L. 90–577, 82 Stat. 1102, approved October 16, 1968, 42 U.S.C. 4201, *et seq.*, as implemented by Budget Circular No. A–97 of August 29, 1969. Among the purposes of title III of that act, as stated in section 301 thereof, is to authorize all departments and agencies of the executive branch of the Federal Government—which do not otherwise have such authority—to provide reimbursable specialized or technical services to State and local governments. Section 302 of the act states that such services shall include only those which the Director of the Office of Management and Budget through rules and regulations determines Federal departments and agencies have a special competence to provide. Budget Circular No. A–97 covers specific services which may be provided under the act and also provides that if a Federal agency receives a request for specialized or technical services which are not specifically covered and which it believes is consistent with the act and which it has a special competence to provide, it should forward such request to the Bureau of the Budget (now Office of Management and Budget) for action. The same procedure is to be followed if there is doubt as to whether the service requested is included within the services specifically covered. Section 304 requires an annual summary report by the agency head to the respective Committees on Government Operations of the Senate and House of Representatives on the scope of the services provided under title III of the act. Possibly future requests for briefings from State or local police agencies could be considered under the provisions of that act and the implementing budget circular.

In the letter of January 29, 1973, to Congressman Koch from your Legislative Coun-

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sel it is stipulated that the activities in question were not considered to violate the letter or spirit of the provisions of the National Security Act of 1947 which states that "the Agency shall have no police, subpoena, law enforcement powers, or internal-security functions." See 50 U.S.C. 403(d)(3). We do not regard the activities as set out above as being in violation of these provisions, but as previously indicated, we have found no authority for those activities by your agency, unless provided on a reimbursable basis in accordance with the Intergovernmental Cooperation Act of 1968, or at the request of the Law Enforcement Assistance Administration under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968, which was not the case here.

Copies of this letter are being sent to the Members of Congress referred to above.

Sincerely yours,

ELMER B. STAATS,
*Comptroller General of the United States.*

## YOUTH CONSERVATION CORPS

(Mr. MEEDS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks and include extraneous matter.)

Mr. MEEDS. Mr. Speaker, today I am introducing, with 58 of our colleagues, a new youth conservation corps bill to expand the program and make it permanent.

The original YCC legislation, which was passed in 1970, established a 3 year pilot program for young people 15 through 18 years of age from all socioeconomic and racial backgrounds. At that time Senator JACKSON and I, as the original sponsors of the legislation, contemplated a program in the magnitude of $150,000,000 serving 150,000 young men and women. But decided to start with a pilot program. We could learn from mistakes made on a small scale, see what techniques work best and then expand the program with a minimum of stress. Last year the Congress stairstepped the expansion of YCC by providing a fiscal year 1973 authorization of $30 million and $60 million for fiscal year 1974.

Considering the success of the Youth Conservation Corps, it appears from this vantage point that we may have been too cautious. The program has encountered no serious problems; we hear only praise. It is time that the Youth Conservation Corps be made a permanent program and expanded to meet the summer employment needs of our youth and the maintenance needs of our public lands.

The bill introduced today includes a Federal-State cost sharing program, whereby 30 percent of the YCC funds would be devoted to grants to States for YCC projects on State lands. The provision has the effect of bringing the YCC to the East where many young people reside but where there are few Federal lands. Assuming full funding and that the Federal Government pays 50 percent of the cost of the State grant program, 70,000 young people would be hired each summer to work on State laws; 80,000 would be employed on Federal lands.

An important part of the Youth Conservation Corps is its requirement that there be a mix of young people in the program. All socioeconomic and racial classifications are represented in the corps. The heterogeneous nature of the program is one of its strengths. Young people from all segments of society, working together, find they have many things in common not before discovered. I recently acquired a copy of a letter addressed to an administrative officer of the Ochoco National Forest in Prineville, Oregon from a Portland, Oreg., high school counselor which I think is significant:

> Last year, one of our Wilson students had the good fortune to be accepted in the Youth Conservation Corps. The change for the good in that young man was absolutely indescribable. His Counselors and teachers had absolutely given up on him and he was suspended from school. However, when he came back he had a positive attitude about himself as well as school and most people who knew him at Wilson could not believe the change.
>
> The experience offered in the Youth Conservation Corps is much more valuable to Wilson students than most others because it is so different from their past experience. It is because of this that I hope you will be able to take all four of our applicants. I am absolutely certain it will be the most valuable experience any of the four have ever had in their life time.

In hearings last year, a number of corps participants talked about how the work they did in YCC was something worthwhile. Dr. Beverly L. Driver of the University of Michigan's Institute of Social Research, testified concerning the independent evaluation of the program. The evaluation showed that 98.6 percent of the participants felt their experience was worthwhile and highest ratings were given to the quantity and quality of work accomplished. Young people today do not want make-work jobs, merely to be on the receiving end of a paycheck. Certainly compensation is important, but the job must be meaningful.

It is also noteworthy that the University of Michigan study shows that youth in the 1972 YCC program gained environmental understanding and awareness equivalent to a full year of study in a normal high school setting.

The Youth Conservation Corps is a people oriented program, but it is also an environmental and resource maintenance program. Not only does YCC provide summer employment for our young people, but the Nation is nearly repaid the cost of the program in improvements on our public lands. In upgrading our public lands, YCC corpsmen work in areas of erosion control, campground construction and maintenance, tree planting, timber production, trail construction, and maintenance and wildlife habitat improvement, to name a few.

The backlog of needed work on our public lands increases every year. The experience of the pilot YCC shows us that 150,000 hardworking young people, enthusiastic about their summer jobs, will certainly be able to hold that backlog to a minimum.

At a time when our young people need summer jobs and there's work to be done on our public lands, the new Youth Conservation Corps bill provides us with a unique opportunity to attack two problems with one solution.

## POSTCARD VOTER REGISTRATION

(Mr. WAMPLER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. WAMPLER. Mr. Speaker, the House of Representatives will soon be considering the Senate-passed bill that would permit voter registration by mail. Post cards would be mailed from the Census Bureau to every household in the United States, and anyone who signed one and returned it would be duly registered to vote. I strongly oppose this legislation.

In my opinion, it would open the very real possibility of widespread fraud, error, and confusion. The right to vote is a unique privilege, but it carries with it some measure of responsibility as well. I believe most Americans are more than willing to bear the small inconvenience imposed by the requirement that they register in person in order to verify their eligibility to vote.

I would like to bring to the attention of my colleagues, first, a letter I received from Mrs. John M. Payne, president of the Virginia Electoral Board Association, which clearly states the hazards inherent in this bill. I would also like to commend to your attention, an editorial from the Roanoke Times of June 5, 1973 which raises additional questions and suggests alternatives. Both the letter and the editorial follow:

THE CITY OF LYNCHBURG, VA.,
*May 24, 1973.*

HON. WILLIAM C. WAMPLER,
*Congrss of the United States,*
*Washington, D.C.*

DEAR BILL: The Executive Committee of The Virginia Electoral Board Association met Tuesday, May 21 at 11:00 A.M. at the Capitol in Richmond. At this meeting the Executive Committee went on record unanimously opposing S. Bill 352—Post Card Registration.

For Congress to pass this bill even though the Senate did pass it is unbelievable!

A bill which would allow Americans to register for Federal elections by simply mailing a post card is preposterous. Under this insane proposal, millions of post cards with return cards attached would be mailed to street and rural addresses, not to named individuals but to the "Occupant" or "Householder" as we understand this proposed legislation. The estimated cost of the program could run as high as $300 million a year.

As you know here in Virginia we have been striving to put a stop to illegal practices in the Election System and in the last three years have made tremendous stride in this direction. The Central Voter Registration System is just one of many things which we have developed recently in Virginia to help prevent fraud.

Should this Bill pass and become law does anyone have any clear idea how the system would work? I understand that the Census Bureau and the Postal Service opposes it. There is not a single valid argument that can be made in its favor and many, many arguments against it.

The Exectuive Committee of The Virginia Electoral Board Association has instructed me as its President, to issue a statement in opposition to Post Card Legislation and to make our position known to the members of Congress from the Commnwealth of Virginia.

With my best wishes.

Sincerely,

MRS. JOHN M. PAYNE,
*President, the Virginia Electoral Board Assoctation.*

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OGC 73-1080

15 June 1973

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MEMORANDUM FOR: [redacted]/OLC

SUBJECT : S.1726 -- Public Information Act of 1973

Generally I would support your comments. The following will elaborate on some of the same points and make some specific comments on things that seem particularily noteworthy to me.

Page 2, Line 21

OGC

FOIAB5

The Bill does not change 5 U.S.C. 552(b)(3), which exempts from the disclosure requirements matters specifically exempted from disclosure by statute. [redacted]

Page 2, Lines 25-26

This is confusing. It appears to result in exempting from the section 552 disclosure requirement anything which has been declassified (emphasis supplied) under subsection (e) of S.1726.

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Page 4, Lines 2-6

This sentence seems to be in conflict with the previous sentence which authorizes classification when unauthorized disclosure "may reasonably be expected to cause damage to the national defense". The use of the word "only" in Line 3 leaves it open to interpretation as a qualification of the authority in the previous sentence. The sentence either does nothing or seriously waters down the basic classification authority and it would be better to delete it. Alternatively, the words "tend to" could be inserted after "would" in Line 4 or, as you suggested, "could" might be used instead of "would".

Page 4, Line 13

The only classification provided for would be "Secret Defense Data". The lack of degrees of classification may be questionable. All material which would qualify for this classification would not be equally sensitive. The result could be overclassification of some material and possibly a need for handling controls for all classified material which would normally apply only to material of greatest sensitivity.

Page 5, Lines 17-18

"Section chief or its equivalent" is very vague statutory language.

Page 7, Lines 16-20

The strict limitation of classification on the basis of content might create problems, especially in this Agency. I can't come up quickly with an example, but I think it is evident that knowledge that the Agency is studying a particular group or type of unclassified material might make obvious national defense matters which in themselves are, or should be, classified. Maybe this is something we should talk about in order to come up with good examples because otherwise it will be very difficult to convince anyone who is trying to restrict classification authority.



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Page 9, Lines 1-4

The requirement that classified information or material from a foreign government be provided to any member or committee of Congress notwithstanding any contrary agreement or stipulation certainly would serve to reduce the availability of information from foreign governments to the detriment of the United States.

Pages 9-13

These specific requirements for designation, reclassification and declassification seem to be so burdensome that the system might fall of its own weight. The least burdensome is section 104(d)(9) set forth on Page 9, Line 5 et seq. Nevertheless, it would require employees using previously classified material to reconsider the material under the S.1726 requirements even though in many cases such employees might not be familiar enough with the background to make a proper decision without great difficulty. The problem with the declassification provisions is that they cannot be avoided in any practical way if Page 13, Lines 8-10 are effective. This requirement that deferrals of declassification be done only by the Agency head and not be redelegated would make the procedure nearly unusable.

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Page 13, Line 13 et seq.

This provision for a civil action by any person contesting a deferral of automatic declassification seems designed to promote litigation and harassment including some promoted by opposition intelligence services. The subsection also places a duty on the courts which they may not want and in many cases may not be well qualified to undertake.

Page 14, Lines 15-23

This is another burdensome requirement which must be designed either to totally defeat the classification system or to create a paperwork bureaucracy. It also assumes that the declassification authority would know who all the holders of such declassified material are. OGC FOIAB5

[redacted]

Page 15, Lines 16-20

This gives the Administrator of General Services authority which in most cases he would be unqualified to exercise, at least without the assistance of the classifying agency. Although the subsection provides for such assistance, it does not require the Administrator to use it, and thus in theory, he could act arbitrarily.

Page 16, Lines 6-14

This subsection appears to require regulations providing for disciplinary action for improper classification.



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Page 19, Lines 7-15

This doesn't make much difference to the Agency and I am sure we won't want to comment on it, however, I think Article I, section 6 of the U.S. Constitution, as interpreted, says this already.

Page 23, Lines 8-20

Again, we probably won't want to comment on it, but these two subsections might present a nice constitutional question.

Page 24, Lines 19-23

I agree with your comments about conflicts with statutes protecting CIA information and I also note that this seems to overlap the duties and authorities of the Comptroller-General.

Page 27 et seq. (Title IV -- Privileged Information)

This would seem to be just another in the continuing series of legislative efforts to limit executive privilege by statute. I don't see why it should have any more or less effect than any other efforts and I am sure that executive privilege will continue, as it has for 184 years, to be a controversial issue finally settled case by case by reasonable men who will be wise enough not to take positions they cannot back away from. 25X1A

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[redacted] Assistant General Counsel [redacted] 25X1A

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MEMORANDUM FOR: Mr. Colby

5. Beyond the strict legal effect of these amendments when they become law is the practical aspect that they are a manifestation of a growing opinion among members of Congress that the Agency should not be assisting any law-enforcement agencies be they Federal, State or Municipal. These sentiments are further evidenced by the Proxmire bill, S. 1935, the companion House bill (Harrington, H.R. 8592), the Koch bill, H.R. 8432, and others. Thus, it would seem that the Agency should be most careful in its relations with all law-enforcement agencies. Such a policy would be consistent with your testimony in the confirmation hearings before Senate Armed Services Committee on 2 July 1973. It is also consistent with the former Director's views in responding to the Chairman of the Committee on Government Operations on 1 March 1973. He stated in that letter (which was inserted in the Congressional Record) a review was being undertaken and that such activities in the future would be undertaken only in the most compelling circumstances and with the Director's personal approval.

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6. Any assistance that we render in the future should be in accord with law or specifically authorized by law such as assistance to the Secret Service in fulfillment of their responsibilities for the protection of the President and other designated officials. Under that law, which was approved in 1968, a requirement was placed on all Federal agencies to assist the Secret Service in the performance of its protective responsibilities when so requested by its director. We should avoid actions with all law-enforcement agencies which can be misconstrued as involving the Agency in prohibited law-enforcement or internal security functions. I would think the planned case-by-case review is the best method of determining the propriety of each situation.

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